



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/696,238 10/26/00 KLITZNER

0 LIT-016

EXAMINER

TM02/0711

HERTEN, BURSTEIN, SHERIDAN, CEVASCO,
BOTTINELLI & LITT, L.L.C.
COURT PLAZA NORTH
25 MAIN STREET
HACKENSACK NJ 07601

CHIANG, J

ART UNIT

PAPER NUMBER

2642

DATE MAILED:

07/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/696238

Applicant(s)

Klitner ET AL.

Examiner

J. Chiang

Group Art Unit

2642

3

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☒ Responsive to communication(s) filed on 10-26-00

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-20 is/are rejected.

☒ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413

☒ Notice of References Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

Art Unit: 2642

CLAIMS

112 Rejection

1. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 is depending from itself, correction is required.

Art Rejection

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Larkin (US 3993879).

Regarding claim 1, Larkin shows a telephone system comprising:

A plurality of operating components (in 21) for transmitting outgoing signals and receiving incoming signals;

An interface (10, 22) including:

A speaker (24, see also 25); and

A speaker sound tube (10) which has a first end (see 20) and a second end (15).

Art Unit: 2642

Regarding claim 12, Larkin shows a telephone system comprising:

A plurality of operating components (in 21) for transmitting outgoing signals and receiving incoming signals;

An interface (10, 22) including:

A housing (22);

A speaker (24, see also 25); and

A speaker sound tube (10, 14) which has a first end (see 20) and a second end (15).

Regarding claims 2-5, 13-15, Larkin shows:

A jack (receiving interface 22) which has incoming and outgoing signals;

The earpiece (15);

A microphone (23, see also 25);

A microphone sound tube (see 10, 14) having a first end (see 20) and a second end (16).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 9-11, 16, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larkin in view of Furuno (US 5281554).

Art Unit: 2642

Regarding claims 6, 9-11, 16, 19-20, Larkin shows:

The interface (10, 22) having the speaker and the microphone.

Larkin differs from the claimed invention in that it does not explicitly mention that the interface is a part of the telephone or the battery.

However, Furnno teaches providing an interface (see the microphone mounting) which can be a part of the telephone housing (fig. 2a) or a part of a battery (fig. 2b). Further, from various mounting of the interface in various embodiments of the present application, such as the mounting of the interface in the jack, the telephone housing, the battery etc., it can be seen that there is no teaching of criticality for one mounting environment over the other. Therefore, it would have been obvious for one skilled in the art to provide Larkin's interface in the jack, the phone housing or the battery with/without the teaching of Furuno. This simply can be considered as a variation of Larkin as long as the basic concept of providing the speaker/microphone interface and their sound tubes is substantially unchanged. This can also be seen that the operation of the combination is not changed when the mounting environment is changed as shown in the present application.

6. Claims 7-8, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larkin in view of Milani (US 3918550).

Regarding claims 7-8, 17-18, Larkin shows the sound tube (10, 14),

Larkin differs from the claimed invention in that it does not have a valve or volume control.

Art Unit: 2642

However, Milani teaches providing a valve or volume control (21) for a sound tube. Hence, it is commonly seen that volume control is required in sound processing because different users have different preferences when using a sound processing device. Therefore, it would have been obvious for one skilled in the art to modify Larkin's sound tube with a valve/volume control as taught by Milani, such that to control the volume of the device in order to accommodate different users (col. 4, lines 17-23 in Milani).

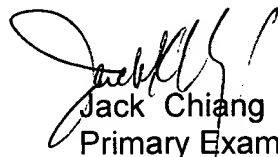
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Larkin (US 4118606) is similar to Larkin (US 3993879), but to simplify the office action, one Larkin is used only.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chiang whose telephone number is 703-305-4728. The examiner can normally be reached on Mon.-Fri. from 8:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Admad Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Art Unit: 2642

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.



Jack Chiang
Primary Examiner
Art Unit 2642